

APPEAL NO. 021219
FILED JUNE 24, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 24, 2002. The hearing officer determined that appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability resulting from an injury sustained on _____. The claimant appeals, arguing that the hearing officer erred in determining injury and disability and that a surveillance evidence tape taken long after the alleged injury had an "unfair impact" on the decision. The respondent (carrier) filed a response urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove, by a preponderance of the evidence, that he sustained a compensable injury on _____, and that he had disability as that term is defined in Section 401.011(16). These issues presented the hearing officer with questions of fact to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer's determinations on the issues are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **FIDELITY & GUARANTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS STREET
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Philip F. O'Neill
Appeals Judge